IN THE HIGH COURT OF JUDICATURE,

ANDHRA PRADESH:AT HYDERABAD.

(SPECIAL ORIGINAL JURISDICTION)

TUESDAY, THE TWENTY SECOND DAY OF JUNE,

TWO THOUSAND FOUR.

PRESENT:

**THE HONOURABLE SRI JUSTICE R. SUBHASH REDDY**

WRIT PETITION. No.9724 OF 1999.

Between

Mallela Phalguna.

…..Petitioner

and

1. The District Collector, R.R.District, at Khairatabad, Hyderabad
2. The MRO, Qutbullapur Mandal, Ranga Reddy Dist.

…..Respondents.

Petition under Article 226 of the Constitution of India, praying that in the circumstances stated in the affidavit filed herein, the High Court will be pleased to issue a Writ, Order or direction, more particularly one in the nature of Writ of Mandamus, declaring the action of the respondents in demolishing the structures in Plot No.3 of Sy.No. 182, admeasuring 228 square yards, situtated at Dhoolapally village, Qutubullaphur Mandal, R.RiDist as arbitrary, illegal and unjust.

FOR THE PETITIONER: Sri M.S.N. Prasad, Advocatre

FOR THE RESPONDENTS: G.P. for Revenue.

The Court made the following ORDER:

This Writ Petition is filed, to declare the action of the respondents in taking steps to demolish the house property in plot No.3 of Sy.No. 182, admeasuring 228 square yards, situated in Dhoolapally village, Qutubullahopur Mandal, Ranga Reddy District as illegal and arbitrary.

It is the case of the petitioner that he has purchased an extent of 228 square yards in Sy.No. 182 of Dhoolapally village through registered sale deed dated 19-6-1998 from one S.Nageswara Rao and constructed house therein. It is stated that the said S.Nageswara Rao purchased the said land from one Smt. Janaki Marimma through registered sale deed dated 9-9-1996 and the said Smt. Janaki Marimma purchased the said property from Bheemavarapu Nagireddy through registered sale deed dated 1-10-1991. It is the case of the petitioner that on 28-4-1999, the second respondent tried to demolish the house existing in the land in question, without issuing prior notice and conducting enquiry. It is his case that no orders are passed against him; as such, the respondents cannot demolish the house property existing in the said land.

In the counter affidavit filed by the Mandal Revenue Officer, it is stated that the land in Sy. 182, admeasuring Ac.15.07 guntas is classified as '*Khariz Khata Sarkari'* of Doolapally village and the entire land in the said survey number was assigned to landless poor persons of Doolapally village. It is stated that the said assignees have converted the land into residential plots contrary to the purpose for which the land has been assigned to them. It is stated that the petitioner is one of the purchasers, to the extent of 228 square yards. It is further stated that by issuing notice to the assignees, orders dated 21-10-1998 are passed for resumption of the said land to government custody and accordingly, the land was restored to the custody of Government on 4-11-1998.

When there was dispute regarding existence of structures in the said land, this Court by order dated 5-11-2002 appointed an Advocate Commissioner to report the physical features existing on the land in question. Pursuant to the said order, the Advocate Commissioner has submitted report, stating that building

consisting of two rooms, one big hall with asbestos roof, is existing on the land in question.

From the above averments, it is clear that the petitioner has purchased the land in question through registered sale deed dated 19-6-1998 and raised constructions with due permission obtained from Gram panchayat. According to the counter affidavit filed by the Mandal Revenue Officer, the land was resumed to the custody of the Government by passing final orders on 21-10-1998. It is to be seen, even earlier to the resumption of land to the government, the petitioner has purchased the land in question through registered sale deed dated 19-6-1998. Even assuming that transfer is effected in contravention of the A.P. Assigned Lands (Prohibition of Transfers) Act, 1977, unless the petitioner is issued prior notice and enquiry is conducted under the provisions of the said Act, the petitioner cannot be evicted from the land in question. As such, it is not open for the respondents to take steps to demolish the house property of the petitioner straight away without even passing orders declaring the transfer as illegal.

In that view of the matter, the Writ Petition is disposed of directing the respondents not to demolish the house property in plot No.3 of Sy.No. 182, admeasuring 228 square yards, situated in Dhoolapally village, Qutubullahopur Mandal, Ranga Reddy District. If the said property is transferred in contravention of the A.P. Assigned Lands (Prohibition of Transfers ) Act 1977 , it is open for the respondent authorities to take steps in accordance with law. No costs.

Asst.Registrar

//True Copy//

Section Officer

To

1. The District Collector, Ranga Reddy District, at Khairatabad, Hyderabad.

2. The Mandal Revenue Officer, Qutbullapur Mandal, Ranga Reddy District.